

Court No. 13

WPA 16833 of 2019
(Old No. WP 16833 (W) of 2019)

16.09.2020

(SL 1)
(sp/pk)

CAN 1 of 2020
(Old No. CAN 4104 of 2020)

M/s. Kultali Food Marketing Private Ltd. & Anr.
Vs.
State of West Bengal & Ors.

Mr. Kalyan Bandopadhyay,
Mr. Ram Anand Agarwal,
Ms. Nibedita Pal

... for the petitioners

Mr. Susovan Sengupta,
Mr. Sudip Pal

....for the State

Considering the urgency pleaded by the petitioners in CAN 4104 of 2020, the instant writ petition is taken up for hearing via video conference.

Accordingly, the application being CAN 4104 of 2020 is disposed of.

The petitioners have applied for M.R. Distributorship pursuant to vacancy notice dated July 11, 2018 for the Hingalganj Zone, North 24-Parganas. Subsequently, the Government modified the notification on January 9, 2019 inter alia permitting the petitioner to participate in the process for being considered for M.R. Distributorship under the revised notification. The revised notification was occasioned to ensure certain reservation to certain categories of persons.

In view of the delay in consideration of the petitioners' application, the petitioners moved this Court by way of WP 14509 (W) of 2019 (Kalpataru Maiti vs. State of West Bengal & Ors.) which was disposed of by an order dated August 1, 2019, inter alia directing the State to expedite consideration the petitioners'

application for M.R. Distributorship. The Government, however, thereafter on August 7, 2019 cancelled the entire process of selection of M.R. Distributorship across the West Bengal, inter alia, on the ground that additional vacancies and places were notified and identified for allocation of such distributorship. There are other reasons also mentioned which are not relevant for the purpose of the instant writ petition.

Mr. Kalyan Bandopadhyay, learned Senior Advocate appearing for the petitioners would argue that the notification dated August 7, 2019 is a colourable exercise of power and/or to frustrate the petitioners' application and also the order of this Court dated August 1, 2019 referred to herein above.

He further submits that there is no reason assigned in the notification dated August 7, 2019 for cancellation of the earlier process of application. He submits that the policy decision, if any, of the Government, is not supported by any order of the Governor.

Mr. Kalyan Bandopadhyay, learned Advocate for the petitioners also submits that the State could not produce any document showing any policy decision either across the bar or in their affidavit-in-opposition. Mr. Susovan Sengupta, learned Advocate appearing for the State denies the same. He submits that the cancellation has been done pursuant to a policy decision of the Government which was necessitated in view of the fact that a large number of other areas have been identified in the meantime to ensure effective distribution of basic necessities to the poor and marginalized people. He further submits that the notification dated August 7, 2019 was itself passed on a

policy decision of the Government and no specific order of the Governor is required in this regard.

This Court has carefully considered the arguments of the petitioners and the respondents. It is now well-settled proposition that policy decisions of the State are not interfered with unless they affected existing or vested rights.

In the instant case, it is seen that the petitioners are mere applicants for M.R. Distributorship and as such cannot have any vested rights whatsoever to the same. The petitioners, therefore, lacks locus to challenge the policy decision except by a public interest litigation.

It is further seen that there are reasons available in the order dated August 7, 2019 for canceling the process of selection of M.R. Distributorship. One of the principal reasons being and apparent to this Court is that a large number of new areas have been identified for setting up M.R. Distributorship.

No vested rights of the petitioners are demonstrated to have been affected in the facts of the case. Hence, the prayers made in the writ petition cannot be acceded to.

With the above observations, WPA 16833 of 2019 (Old No. WP 16833 (W) of 2019) shall stand dismissed.

There shall, however, be no order as to costs.

All parties are to act on a server copy of this order on the usual undertaking.

(Rajasekhar Mantha, J.)